

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Release Number: 201529014
Release Date: 7/17/2015
Date: April 24, 2015

Employer Identification Number:
Contact Person - ID Number:

Contact Telephone Number:

LEGEND

UIL 4942.03-07

P= Name
Q= State
R= Name
S= Name
T= Foundation
v dollars= Amount
w dollars= Amount
x= Number
y= Number
z= Number

Dear _____ :

Why you are receiving this letter

This is our response to your December 30, 2014 letter requesting approval of a set-aside under Internal Revenue Code section 4942(g)(2). You've been recognized as tax-exempt under section 501(c)(3) of the Code and have been determined to be a private operating foundation under section 4942 (j)(3).

Our determination

Based on the information furnished, your set-aside program is approved under Internal Revenue Code section 4942(g)(2). As required under section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

Description of set-aside request

You have requested approval of a set-aside of w dollars for the taxable year ending December 31, 2014 for the purpose of developing, constructing, staffing, and operating a new school for early childhood education in the economically disadvantaged neighborhood in Q known as S. You have determined there are significant unmet

needs for early childhood education and related programs in the R neighborhood and other economically disadvantaged neighborhoods in Q.

You currently fund, manage and operate P, which is a school for children from zero to three years of age. P provides high quality early childhood education and related programs and services. P is located in an inner city area of Q known as the R neighborhood and serves a diverse population of economically disadvantaged families. A significant number of students attending P receive tuition assistance and participate in various government subsidy programs directed at early childhood education for children of low income families. Space constraints at P's facility limit the number of students P is able to serve to approximately x. Accordingly, you would like to increase enrollment at P to serve more children and to expand the early childhood education programs and support services by finding an alternative facility with substantially more space and capacity.

You are collaborating with T, a community based charity involved in the revitalization of the S community, to plan, develop, construct, and operate the new school for early childhood education in the S neighborhood. S is in close proximity to the R neighborhood where P is currently located; it is anticipated that most of the children attending P at its current location would be able to transfer to and attend the new school located in S.

T has acquired land on which the new school would be built. Furthermore, you and T have decided to proceed with the development after receiving positive results from a consultant who conducted a feasibility study for a capital campaign to raise funding for the development and operation of a new school in S.

The school will serve about y children. If the needs for early childhood education in the S and surrounding neighborhoods exceed y children, the design of the new school allows for expansion of the facilities to serve as many as z children in its early childhood education programs.

The new school will include approximately 12,000 square feet of additional space to be used for family and community outreach programs directed at the health, education and welfare of the children and the families served by the new school, and other residents of the S community. There will also be secure indoor and outdoor play areas specifically designed for children ages zero to four and a kitchen for preparation of healthy snacks and meals.

The total anticipated costs to develop the new school facilities, and to operate the new school with approximately y students for an initial three year period, are v dollars. You and T will be conducting a capital campaign to raise a significant portion of the funding for the new school. However, even with a successful capital campaign, it is anticipated that you and T will be required to provide additional funding needed for the development and initial operation of the new school.

You anticipate that you will need to provide approximately w dollars of the shortfall in funding to defray the costs of developing the new school and paying operating costs for the initial three to five year period after the new school opens. Accordingly, you are requesting advance approval of a set-aside for the project in the amount of w dollars.

You anticipate that the set aside of w dollars would be expended for some combination of the following purposes:

- (a) Demolition of existing building on site for the new school.
- (b) Consulting and professional costs for new school capital campaign.
- (c) Architectural design and planning of the new school facilities.
- (d) Construction costs of new school building and facilities.
- (e) Costs of furnishings, equipment and other items for the new school.
- (f) New school licensing and accreditation costs.
- (g) Operating deficits for first three to five years of operations.
- (h) Tuition and other assistance to students attending the new school.
- (i) Training, qualification and certification of new school staff.
- (j) Family outreach programs for families with young children.
- (k) Research and data collection to measure results of early learning.

You will set aside w dollars on your books and records to be used for the purposes described above in items (a) through (k). An entry will be made in your books and records segregating the set-aside funds from your general funds. You will maintain separate accounting records for the expenditure of the set-aside funds in connection with the new school project during the five year period commencing on January 1, 2015.

You do not anticipate any additions to the set-aside for which you are seeking advance approval. Income earned on the set-aside funds would be added to the set-aside amount and expended for the above-described purposes in connection with the new school project by the end of the five year period of the set-aside.

The new school project is better accomplished by a set-aside, rather than the immediate payment of funds, for the following reasons:

- (a) The planning, design, development, construction, and furnishing phases of the new school building and facilities are anticipated to occur over an approximately three year period;
- (b) The capital campaign for the new school project is in the formative stages creating uncertainty regarding the amount of funding that will be raised by the campaign and the shortfalls which may need to be funded by you and T in order to complete the new school project; and
- (c) The number of children expected to enroll in the early childhood education programs offered by the new school, the number of students who will require tuition subsidies to attend the new school, and the costs of operating the new school to serve those children, is uncertain. You contemplate that a portion of the set-aside would be used as a reserve to fund operating deficits during the three to five year period after the school opens.

Substantially all of the expenses related to the new school project will be incurred over a five year period beginning on January 15, 2015. These expenses will need to be paid as they are incurred, making it impractical and unnecessary for you to pay a portion of the expenses in the current year. By setting aside w dollars in the current year, you will have funds reserved and available to pay a portion of the expenses related to the new school project as those expenses are incurred and are due to be paid.

You have declared and affirmed that the amount of the set-aside will be expended in connection with the new school project described herein during the sixty month period commencing on January 1, 2015.

Basis for our determination

Internal Revenue Code section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes that the project can better be accomplished using the set-aside than by making an immediate payment.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better accomplished by a set-aside than by immediate payment if the set-aside satisfies the suitability test described in section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include, but are not limited to, projects where relatively long-term expenditures must be made requiring more than one year's income to assure their continuity.

In Revenue Ruling 74-450, 1974-2 C.B. 388, an operating foundation converted a portion of newly acquired land into a public park under a four-year construction contract. The construction contract payments were to be made mainly during the final two years. This constituted a "specific project." The foundation's set-aside of all its excess earnings for four years was treated as a qualifying distribution under Internal Revenue Code section 4942(g)(2).

What you must do

Your approved set-aside(s) will be documented on your records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code

section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under section 4942(f) of the Code.

Additional information

This determination is directed only to the organization that requested it. Internal Revenue Code section 6110(k)(3) provides that it may not be used or cited as a precedent.

Please keep a copy of this letter in your records. We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Director, Exempt Organizations

Enclosure